

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 20406      (Application 29446)  
**Tule Vista Livestock Company**

**ORDER APPROVING EXTENSION OF TIME  
AND AMENDING THE PERMIT**

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SOURCE:      Unnamed streams tributary to Montezuma Slough  
COUNTY:      Solano

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**WHEREAS:**

1.      Permit 20406 was issued to Tule Vista Livestock Company on December 27, 1989, pursuant to Application 29446.
2.      A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on February 8, 2000.
3.      The permittee has proceeded with diligence and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on May 24, 2002, and no protests were received.
4.      The SWRCB has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5.      The permit condition relating to the water quality objectives of the SWRCB should be updated to conform to Section 780 (b), Title 23 of the California Code of Regulations.
6.      Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
7.      There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the Division's public trust responsibilities, a condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

**NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20406 IS AMENDED TO READ AS FOLLOWS:**

1.      Conditions 8 and 9 of the permit be amended to read:

Construction work shall be completed by December 31, 2007. (0000008)

Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2008.

(0000009)

2. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

3. Permit 20406 is amended to include the following Endangered Species condition:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

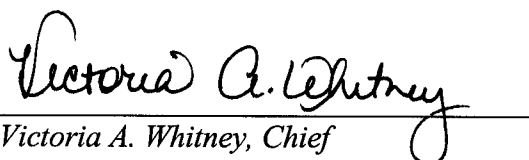
4. Permit 20406 is amended to include the following archeological condition:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

5. All other conditions of Permit 20406 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated: APR 12 2004

STATE OF CALIFORNIA  
WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20406

Application 29446 of Tule Vista Livestock Company,

2506 Filbert Street, San Francisco, CA 94123

filed on March 23, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(2)(3) Two Unnamed Streams

Hasting Slough thence

Cross Slough

(4)(7) Unnamed Stream

Cross Slough thence

Montezuma Slough thence

Suisun Bay

2. Location of point of diversion:

40-acre subdivision  
of public land survey  
or projection thereof

Section

Town-  
ship

Range

Base  
and  
Meridian

RESERVOIR NO. 2  
SOUTH 1,450 FEET AND EAST 1,400 FEET FROM NW CORNER OF  
SECTION 14

SE $\frac{1}{4}$  OF NW $\frac{1}{4}$

14

4N

1W

MD

RESERVOIR NO. 3  
SOUTH 2,000 FEET AND WEST 1,150 FEET FROM NE CORNER OF  
SECTION 15

SE $\frac{1}{4}$  OF NE $\frac{1}{4}$

15

4N

1W

MD

RESERVOIR NO. 4  
SOUTH 3,300 FEET AND EAST 2,050 FEET FROM NW CORNER OF  
SECTION 15

NE $\frac{1}{4}$  OF SW $\frac{1}{4}$

15

4N

1W

MD

RESERVOIR NO. 7  
NORTH 650 FEET AND EAST 2,100 FEET FROM SW CORNER OF  
SECTION 10

SE $\frac{1}{4}$  OF SW $\frac{1}{4}$

10

4N

1W

MD

County of Solano

3. Purpose of use:

4. Place of use:

Section

Town-  
Ship

Range

Base  
and  
Meridian

Acres

STOCKWATERING

RESERVOIR NO. 2 WITHIN  
SE $\frac{1}{4}$  OF NW $\frac{1}{4}$

14

4N

1W

MD

RESERVOIR NO. 3 WITHIN  
SE $\frac{1}{4}$  OF NE $\frac{1}{4}$

15

4N

1W

MD

RESERVOIR NO. 4 WITHIN  
NE $\frac{1}{4}$  OF SW $\frac{1}{4}$

15

4N

1W

MD

RESERVOIR NO. 7 WITHIN  
SE $\frac{1}{4}$  OF SW $\frac{1}{4}$

10

4N

1W

MD

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 25.7 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year as follows: 2.5 acre-feet per annum in Reservoir No. 2, 1.0 acre-feet per annum in Reservoir No. 3, 3.0 acre-feet per annum in Reservoir No. 4, and 19.2 acre-feet per annum in Reservoir No. 7. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1993. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1994. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000041)

15. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

16. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam for Reservoir No. 7 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that an outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

17. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning protection of beneficial uses of water in Suisun Marsh. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000094)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

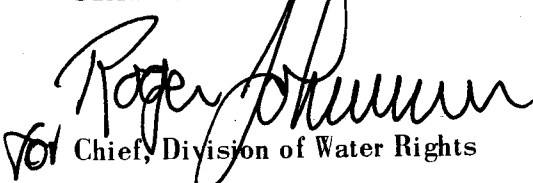
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DECEMBER 27 1989

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights